CCRB INVESTIGATIVE RECOMMENDATION

Investigator:		Team:	CCRB Case #:	I Fo	rce	V	Discourt.	□ U.S.
Max Bernstein		Team # 6	201310083	□ At		_	O.L.	☐ Injury
Max Deffisteni		Team # 0	201310083		use	ш	O.L.	
Incident Date(s)		Location of Incident:	•	Prec	inct:	18 N	Mo. SOL	EO SOL
Friday, 10/25/2013 10:20 PM		§ 87(2)(b)		7	9	4/2	25/2015	4/25/2015
Date/Time CV Reported		CV Reported At:	How CV Reported	: Da	te/Time	Recei	ved at CCl	RB
Sat, 10/26/2013 6:55 AM		CCRB Call Processing System		Sat, 10/26/2013 6:55 AM				
Complainant/Victim	Type	Home Add	ress					
Witness(es)	Witness(es) Home Address							
Subject Officer(s)	Shield	TaxID	Command					
1. POM Brian Alexander	00570	948599	079 PCT					
Witness Officer(s)	Shield N	Tax No	Cmd Name					
1. POF Pamela Benites	13086	946728	079 PCT					
2. POM Raymond Williams 22154		947610	079 PCT					
3. POM Brian Christensen	29540	940002	079 PCT					
Officer(s)	Allegation	on			Inve	stigat	tor Recon	nmendation
A.POM Brian Alexander	Force: Post Post Post Post Post Post Post Post	Force: PO Brian Alexander used physical force against \$87(2)(b)						
B.POM Brian Alexander	Discourt	Discourtesy: PO Brian Alexander spoke rudely to \$87(2)(b)						
C.POM Brian Alexander	Force: PO Brian Alexander used physical force against \$87(2)(b)							

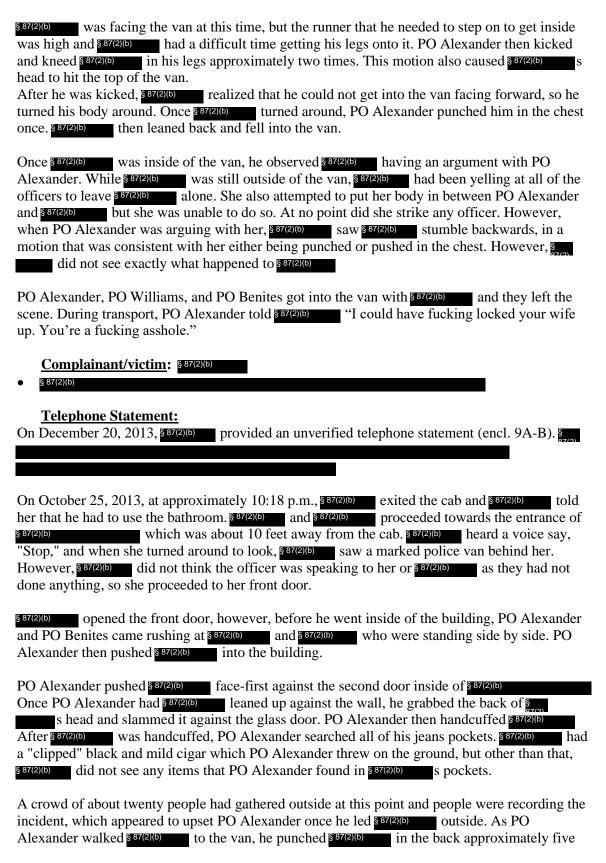
Case Summary On October 26, 2013, §87(2)(b) filed this complaint on behalf of herself and her husband with the CCRB via the agency's Call Processing System. On October 25, 2013, at approximately 10:20 p.m., §87(2)(b) was arrested by officers from the 79th Precinct Conditions team and the following allegations resulted: • Allegation A: Force—PO Brian Alexander used physical force against \$27(2)[5] Allegation B: Discourtesy—PO Brian Alexander spoke rudely to \$87(2)(6) Allegation C: Force—PO Brian Alexander used physical force against §87(2)(6) was arrested as a result of this incident and thus, this case was not eligible for mediation. **Results of Investigation Civilian Statements** Victim: § 87(2)(b) § 87(2)(b) s arrest photo revealed no visible injuries (encl. 8). **CCRB Statement:** was interviewed at the CCRB on November 20, 2013 (encl. 7A-G). His statement is summarized below.

On October 25, 2013, at approximately 10:00 p.m., \$87(2)(b) was standing outside of a barbershop, located on \$87(2)(b) in Brooklyn. \$87(2)(b) lives at \$87(2)(b) and his building is a few buildings away from the barbershop, closer to \$87(2)(b) had a "5 dollar bag" of marijuana tucked in the smaller pocket within the larger right pocket of his jeans. At no point did \$87(2)(b) remove the bag from his pocket.

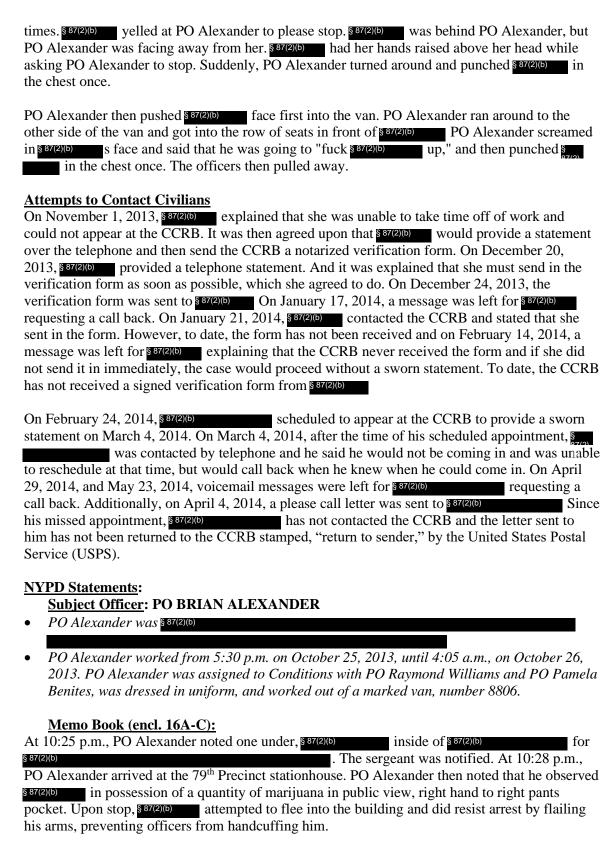
A little after 10:00 p.m., \$87(2)(b) wife, \$87(2)(b) drove past \$87(2)(b) and pulled up in front of \$87(2)(b) was coming from a party and when \$87(2)(b) saw her, he walked over to the cab and opened the door for her. As \$87(2)(b) met \$87(2)(b) a marked police van came down the street and parked a little bit in front of \$87(2)(b) s cab, but on the

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opposite side of the street. § 87(2)(b) was not smoking anything at this time and had nothing in his hands. After speaking with \$87(2)(b) for less than three minutes, \$87(2)(b) told \$87(2)(b) that he had to use the bathroom. §87(2)(b) walked towards his front door at a "bathroom pace," which he said was slower than a run, but was a brisk walk. Before §87(2)(b) walked away, he saw three officers, identified through investigation as PO Brian Alexander, PO Pamela Benites, and PO Raymond Williams of the 79th Precinct, exit the marked van. As \$87(2)(6) walked towards his door, he heard an unidentified officer say, "Come here," or "Get over here." §87(2)(b) did not think the officers were speaking to him, so he proceeded into his building, while § 87(2)(b) remained outside. opened the front door, which leads to a long hallway, and then a second door. As entered his building, he saw his \$87(2)(b) -old son \$87(2)(b) -old niece, and \$87(2)(b) -old nephew named \$87(2)(b) identified through investigation as \$87(2)(b) coming through the second door. \$87(2)(b) passed his son, niece, and nephew, and then waited at the second door, which remains locked until the front door is closed completely. While \$27(2)(b) waited at the second door, he heard the door opening behind him so he turned around and saw PO Alexander, PO Benites, and PO Williams enter the building. [807(2)(6)] not see or know how the officers gained entry into the building. s head was turned around, but his body was still facing the door. PO Alexander came up to \$37(2)(b) and pushed him against the door, face first, \$37(2)(b) swung his right arm backwards and said, "What's wrong with you? Get off me. I gotta use the bathroom." \$87(2)(6) did not indicate if he hit PO Alexander when he swung his arm backwards. PO Alexander then asked \$87(2)(6) why he ran, but \$87(2)(6) said he did not run, he just had to use the bathroom. PO Alexander then pulled \$87(2)(b) s body slightly away from the door, before pushing him back onto the door. At this time, \$87(2)(b) repeatedly swung his arm back to get PO Alexander off of him. PO Alexander then handcuffed both of \$87(2)(b) s wrists. Once \$87(2)(b) was handcuffed, he stopped physically resisting. PO Alexander then put his hand into all four of \$87(2)(b) s jeans pockets. PO Alexander pulled out the contents of each pocket, before putting them back inside. The first time PO Alexander searched \$87(2)(b) so pockets, he did not find the marijuana. However, PO Alexander searched § 87(2)(b) a second time, at which point he found the small bag of marijuana in his pocket. After PO Alexander found the marijuana, he led \$87(2)(b) out of the building. At this time, there were multiple other uniformed officers and marked police vehicles present and the initial van was now parked directly in front of \$87(2)(b) In addition to multiple officers, \$87(2)(b) s son, niece, and multiple neighbors were outside. PO Alexander led § 87(2)(b) to the van, and § 87(2)(b) walked willingly. However, once § reached the side of the van, he heard his son crying. \$57(2)(5) turned around to look at his son and PO Alexander said, "Turn the fuck around," and punched \$87(2)(b) in the back approximately three times.



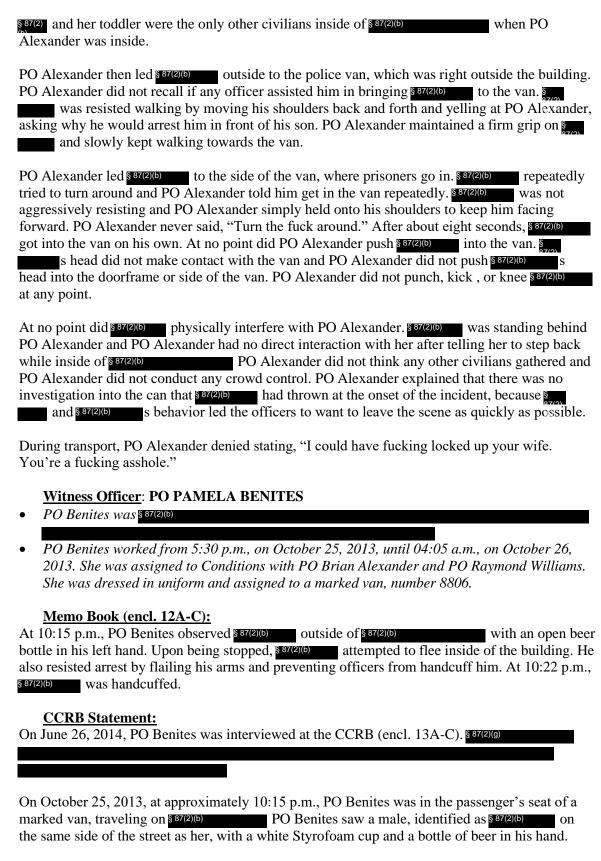
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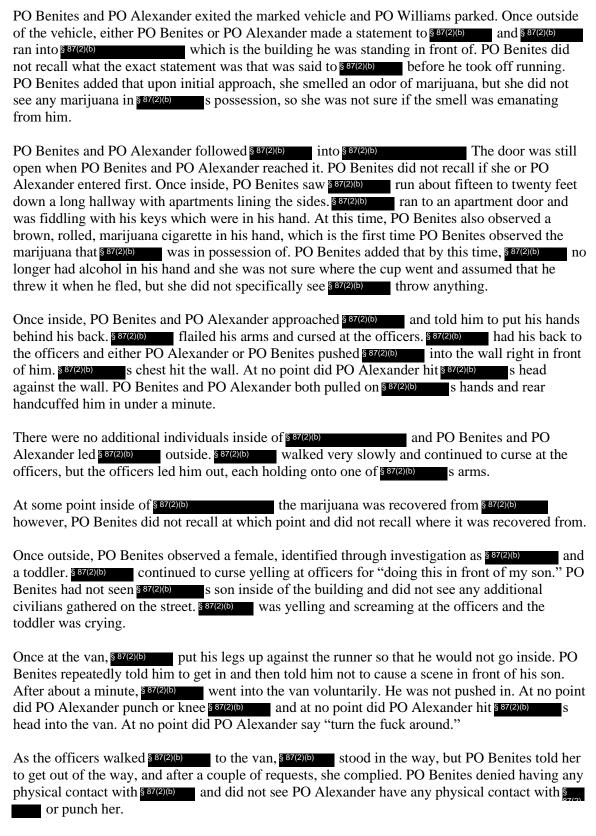
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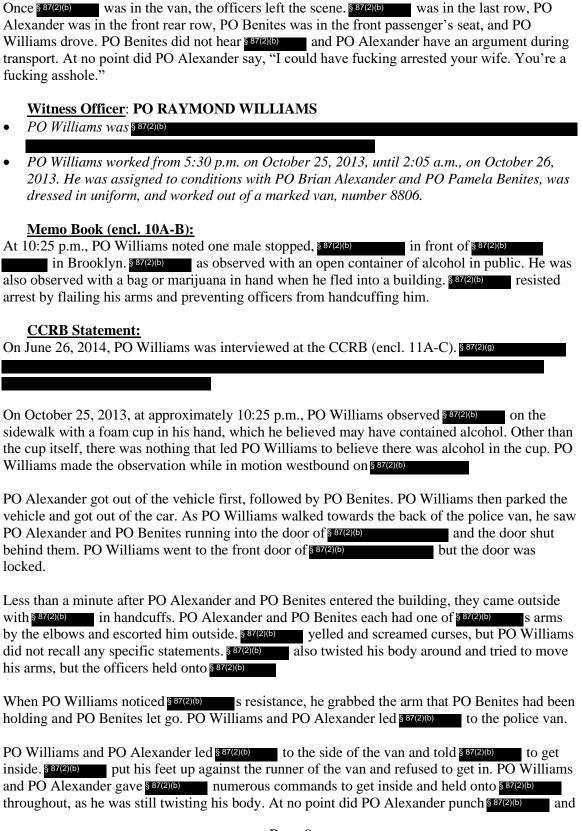
Arrest Report and Supporting Depositions: PO Alexander prepared an arrest report (encl. 17A-C) for \$87(2)(b) regarding this incident. The report listed that \$87(2)(b) was observed in possession of a quantity of marijuana in public view. While attempting to place him under arrest, he flailed his arms at officers preventing them from handcuffing him. \$87(2)(b) was found to have an active warrant. He was charged with \$87(2)(b) . The report listed that no force was
used against § 87(2)(b)
The supporting deposition (encl. 18A-D) listed that PO Alexander observed [887(2)(b)] in a hallway with one zip lock bag of marijuana in his hand. The bag was eventually recovered from his pocket.
<u>CCRB Statement:</u> On July 10, 2014, PO Alexander was interviewed at the CCRB (encl. 20A-C). His statement was summarized below.
On October 25, 2013, at approximately 10:25 p.m., PO Alexander was inside of a police vehicle driving down a one-way street on \$87(2)(5) in Brooklyn. PO Alexander was not driving, but he did not recall his positioning in the vehicle. As the vehicle drove past \$87(2)(5) PO Alexander observed a male, identified as \$87(2)(5) moving from a taxi to the curb. \$87(2)(5)
PO Alexander exited the vehicle and said something to \$\frac{87(2)(b)}{2}\$ to grab his attention, although he did not recall the exact statement. \$\frac{87(2)(b)}{2}\$ looked at PO Alexander and then ran towards the front door of \$\frac{87(2)(b)}{2}\$ and threw the can to the ground. \$\frac{87(2)(b)}{2}\$ tried to close the door behind him, but PO Alexander reached the door before \$\frac{87(2)(b)}{2}\$ was able to close it. PO Alexander pushed the door open and \$\frac{87(2)(b)}{2}\$ ran through a hallway inside of the building to another door. Before \$\frac{87(2)(b)}{2}\$ could reach the second door, PO Alexander grabbed him. PO Alexander grabbed \$\frac{87(2)(b)}{2}\$ s arms, but \$\frac{87(2)(b)}{2}\$ tried to pull his arms in front of his body.
PO Benites also came into [887(2)(b)] and assisted PO Alexander in handcuffing [87(2)(b)] In less than one minute, PO Alexander and PO Benites were able to pull [887(2)(b)] Is hands behind his back and handcuff him. PO Alexander explained that the door was right in front of [887(2)(b)] during the struggle, but PO Alexander did not recall if [887(2)(b)] Is body was up against the door. At no point was [887(2)(b)] Is face or head up against the door and PO Alexander did not push [887(2)(b)] against the door intentionally.
After \$87(2)(b) was handcuffed, PO Alexander removed the bag of marijuana from \$87(2)(b) s right pants pocket. \$87(2)(b) was not searched prior to being placed in handcuffs.
and started yelling at PO Alexander and \$87(2)(b) Alexander did not recall what \$87(2)(b) was saying specifically, but PO Alexander asked her to back up, which she did. PO Alexander did not make any physical contact with \$87(2)(b)

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was not thrown into the van. After less than two minutes of instructing 887(2)(b) to go inside, 887(2)(b) went into the van on his own.
In the span that \$57(2)(b) was resisting getting into the van, \$57(2)(b) approached and pulled on PO Williams' uniform and arms in order to prevent \$57(2)(b) from going into the van. Additionally, \$57(2)(b) stood between \$57(2)(b) and the van, pulled on PO Alexander, and yelled profanity. PO Williams gave \$57(2)(b) numerous commands to get back, but did not make physical contact with her. PO Williams did not see any officer make physical contact with \$77(2)(b) stopped interfering. PO Williams did not recall if any other individual or individuals gathered around. PO Williams did not conduct any crowd control.
At no point at the scene did PO Williams observe PO Alexander punch or knee 887(2)(b) PO Alexander did not say "turn the fuck around," to 887(2)(b) PO Williams did not observe any officer use force against 887(2)(b)
At no point during the transport did PO Alexander say, "I could have fucking locked up your wife. You're a fucking asshole." At no point did PO Alexander use profanity.
MOS Statements Not Included: On June 27, 2014, PO Christensen was interviewed at the CCRB (encl. 15A-B) because he was also assigned to conditions. However, it was determined he was not present for this incident and thus his statement is not included in this report.
 Arrest for Incident and Disposition On April 29, 2014, (2010) as criminal court case was adjourned in contemplation of dismissal (encl. 25A-D).
 Status of Civil Proceedings Neither \$37(2)(b) nor \$37(2)(b) has filed a notice of claim with the City of New York as of June 26, 2014, with regard to the incident (encl. 27).
Civilian Criminal History
• § 87(2)(b)
CLUL CORRIES
 Civilians CCRB History This is the first CCRB complaint filed by \$87(2)(b) (encl. 3).
• § 87(2)(b)

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Subject Officer CCRB History

• PO Alexander has been a member of the service for four years and there are no substantiated CCRB allegations against him (encl. 1).

Conclusion

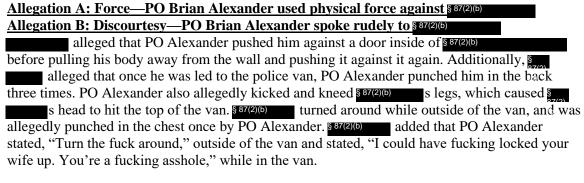
Identification of Subject Officer

PO Alexander acknowledged being the officer who ran after \$87(2)(b) and handcuffed him inside of \$87(2)(b) and \$87(2)(b) and \$87(2)(b) attention was the subject officer in this complaint. Thus, Allegations A, B, and C are pleaded against PO Alexander.

Allegations Not Pleaded:

S87(2)(b) stated that he was not smoking or drinking prior to being stopped, however, PO Alexander stated that he observed \$87(2)(b) with marijuana in his hand and PO Alexander arrested \$87(2)(b) immediately upon contact. Thus, this is not a disputed stop, but instead an arrest dispute. Consequently, no stop allegation is pleaded. Additionally, \$87(2)(b) alleged he was only searched after he was handcuffed, which was incident to his arrest. Therefore, no search allegation is pleaded.

Investigative Findings and Recommendations



§ 87(2)(b)	stated that	§ 87(2)(b)	s head was slamn	ned agai	inst the door ins	side of	§ 87(2)(b)
l l	y PO Alexa	ander. Additi	ionally, § 87(2)(b)	stated	that PO Alexan	der pui	nched § 87(2)(b)
in the bac	ck approxim	ately five ti	mes as he led § 87(2)(b)	to the van. § 87(2	2)(b)	added that once
inside of	the van, PO	Alexander j	punched § 87(2)(b)	in th	e chest once.	37(2)(b)	heard PO
Alexande	er say that h	e was going	to "fuck § 87(2)(b)	up	," when PO Ale	exandei	r and § 87(2)(b)
were in the	he van.						

PO Alexander stated that \$\frac{8}{87(2)(b)}\$ s body may have been pushed up against the second door inside of \$\frac{8}{87(2)(b)}\$ during the struggle, but PO Alexander denied intentionally pushing s face or head into the door. PO Alexander also denied punching \$\frac{8}{87(2)(b)}\$ at any point during the incident. PO Alexander stated that he held onto \$\frac{8}{87(2)(b)}\$ s arms, but \$\frac{8}{87(2)(b)}\$ eventually complied and got into the van himself. PO Benites and PO Williams corroborated PO Alexander's testimony and did not observed PO Alexander punch \$\frac{8}{87(2)(b)}\$ PO Benites stated that after she told \$\frac{8}{87(2)(b)}\$ to calm down in front of his young son, \$\frac{8}{87(2)(b)}\$ complied, and thus no additional force was used.

PO Alexander also denied cursing at any point during the incident and PO Benites and PO Williams did not hear PO Alexander curse at any point.

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§ 87(2)(g)							
Allegation C: Force—PO Brian Alexander used physical force against \$87(2)(b) As stated in the attempts to contact civilians section, \$87(2)(b) failed to provide a signed							
verification form following her telephone statement. §87(2)(9)							
Team:							
Investigator:							
Signature	Print	Date					
Supervisor:							
Title/Signature	Print	Date					
Reviewer:	Print	Date					
Title/Signature	riiii	Date					
Reviewer:	_						
Title/Signature	Print	Date					